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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

JONES, SCOTT E

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/934,003

Applicant(s)

BAERLOCHER ET AL.

Examiner

Scott E. Jones

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3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

MARK SAGER  
PRIMARY EXAMINER

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral (100) is not illustrated in Figure 3A or 3B as discussed on Page 16, line 9 of the specification. Reference numeral (100) is used repeatedly throughout the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 5, 12-14, 17-22, 30-37, 42-44, and 46-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Vasquez, Jr. et al. (U.S. 4,695,053). Vasquez, Jr. et al. discloses a gaming machine that generates random combinations of symbols on slot reels or on a video display and provides a win indication if the random combination generated corresponds to a predetermined winning combination stored in the gaming machine memory and/or if the winning combination corresponds to a player selected combination (Abstract, Figures 1, 2, 3, Column 1, line 40-Column 2, line 22, and Column 2, line 40-column 6, line 16).

4. Claims 1, 2, 4, 5, 12-16, 21, 30-36, 42-44, and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Price is Right's pricing games: Any Number, Cover Up, Dice Game, Easy as 1 2 3, Grand Game, Line'em Up, Side by Side, Squeeze Play, Switcheroo, Temptation, Ten Chances, Master Key, Money Game, One Away, Pathfinder, Pick a Number, or Lucky Seven. Each of these games comprise a plurality of player selectable positions/numbers which determine an award to be given based

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on a player's positioning of numbers (A Salute to Game Shows - The Price is Right - Pricing Games pp. 1-10, 1-13, 1-9, and 1-11).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasquez, Jr. et al. (U.S. 4,695,053) in view of Hamano (U.S. 5,205,555).

Vasquez, Jr. et al. discloses that as discussed above regarding Claims 1, 4, 5, 12-14, 17-22, 30-37, 42-44, and 46-50. Vasquez, Jr. et al. seems to lack explicitly disclosing:

Regarding Claims 3 and 29:

- the award is based on the order of at least three positions, wherein the numbers associated with two of said positions/masked numbers are combined by a mathematical operation.

Hamano teaches of a gaming machine that determines an award for a player by performing a mathematical computation of the numbers that stop on the top line of reels of a gaming machine (Claims 3 and 29). Hamano is analogous art because, like Vasquez, Jr. et al., is an electronic gaming device.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Hamano's process for determining and calculating a player award in a gaming machine in Vasquez, Jr. et al. Doing so, one would be motivated to incorporate Hamano's process for determining and calculating a player award in Vasquez, Jr. et al. to provide an electronic game that is complicated and more interesting than simply relying on an award paid in response to a predetermined or player determined combination that is in a one to one, fixed relationship with a predetermined stored pay table in the gaming machine.

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7. Claims 6-11, 23-28, and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasquez, Jr. et al. (U.S. 4,695,053) in view of Take Your Pick.

Vasquez, Jr. et al. discloses that as discussed above regarding Claims 1, 4, 5, 12-14, 17-22, 30-37, 42-44, and 46-50. Vasquez, Jr. et al. seems to lack explicitly disclosing:

Regarding Claims 6, 24, and 39:

- a player selectable modify input which communicates with the processor, wherein activation of the modify input initiates an award modification method.

Regarding Claims 7, 25, and 40:

- wherein the award modification method is an award multiplication method.

Regarding Claims 8, 26, and 41:

- the award modification method is randomly selected.

Regarding Claims 9, and 27:

- at least one award modification method wherein the processor randomly determines if one of the award modification methods will be applied to the award.

Regarding Claims 10, and 28:

- the random determination is made after the player selects one of the positions.

Regarding Claim 11:

- a plurality of award modification methods wherein the processor selects one of the award modification methods to apply to the award.

Regarding Claims 23, and 38:

- a player selectable keep input.

Take Your Pick teaches of a slot machine having a bonus mode activated when the special Take Your Pick symbol located on the third reel stops on the payline. Regarding Claims 6-11, 23-28, and 38-41, once a bonus is offered, the player can “take win” or “try again.” Additionally, the player is provided

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with up to three bonus offers, with each offer, the player can either accept or reject the offer. If the player rejects the first three offers, then the fourth offer is automatically given to the player by the slot machine.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Take Your Pick's bonus award game in Vasquez, Jr. et al. Doing so, one would be motivated to incorporate Take Your Pick's bonus award game in Vasquez, Jr. et al. to provide a gambling feature that breathes new life into a slot machine game, giving the player the thrill of taking a risk and the opportunity to actually employ a bit of strategy to a game that traditionally was based solely on dumb luck.

8. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vasquez, Jr. et al. (U.S. 4,695,053).

Vasquez, Jr. et al. discloses that as discussed above regarding Claims 1, 4, 5, 12-14, 17-22, 30-37, 42-44, and 46-50. Vasquez, Jr. et al. seems to lack explicitly disclosing a player selection orderer enables the player to press and drag a selection to a position (Claim 45). However, to one having ordinary skill in the art at the time of applicant's invention, this feature was notoriously well known in computer based application software. Since electronic slot machines have been implemented on gaming devices having microprocessors, one would be motivated to use a drag and drop method utilized in notoriously well known computer based software applications for a player to select and position a player selectable winning combination on a display device (36) as shown in Figure 1.

#### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Top Dollar, Yoseloff '334, Baerlocher et al. '161, Randall et al. '649, Sanders '108, Giobbi et al. '925, Vancura '218, and Weiss et al. '873 disclose gaming machines having bonus schemes related to applicant's invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

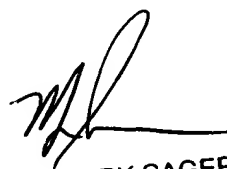
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Scott E. Jones  
Examiner  
Art Unit 3713



sej  
October 9, 2002



MARK SAGER  
PRIMARY EXAMINER